

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MENTAL HYGIENE LEGAL SERVICE,

Plaintiff,

-against-

Docket Number 07-CV-2935
(GEL)

ELIOT SPITZER, in his official capacity as Governor of the State of New York, ANDREW CUOMO, in his official capacity as Attorney General of the State of New York, MICHAEL HOGAN, in his official capacity as Commissioner of the New York state Office of Mental Health, DIANA JONES RITTER, in her official capacity as Commissioner of the New York State Office of Mental Retardation and Developmental Disabilities, and BRIAN FISCHER, in his official capacity as Commissioner of the New York state Department of Correctional Services,

Defendants.

**DECLARATION OF
HOLLIE S. LEVINE**

Hollie Levine, Esq., declares under the penalty of perjury, pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am an Associate Attorney on the staff of the Mental Hygiene Legal Service, Third Judicial Department, Sheila E. Shea, Director. I make this declaration in support of the response of the Intervenor and in opposition to the defendant of motion to dismiss the Intervenor Complaint as moot. I make this declaration upon personal knowledge.

2. I appeared on behalf of Shawn Short in *People of the State of New York v. Shawn Short*, a proceeding commenced pursuant to Article 10 of the New York State Mental Hygiene Law ("MHL") (Sex Offender Management and Treatment Act). The article 10 petition

was originally filed in Tioga County and was then removed to Schuyler County by respondent Short (MHL § 10.06 [b]).

3. Pursuant to MHL § 10.07, a jury trial commenced on March 17, 2008. On March 21, 2008, the jury returned a verdict that Shawn Short was a sex offender who suffered from a mental abnormality.

4. On March 31, 2008, the Honorable Elizabeth A. Garry, J.S.C., issued an Interim Order pursuant to which Short agreed to temporary conditions of Strict and Intensive Supervision and Treatment (“SIST”). A true and correct copy of the Interim Order is attached as Exhibit 1 to the Declaration of Assistant Attorney General Geoffrey B. Rossi.

5. On or about April 8, 2008, the police arrested Shawn Short for violating the conditions of the Interim Order and charged Shawn Short with Criminal Contempt in the Second Degree in violation of Penal Law § 215.50(3). Justice Garry subsequently issued a Confinement Order. A true and correct copy of the Confinement Order is attached as Exhibit 2 to the Declaration of Assistant Attorney Geoffrey B. Rossi. Shawn Short was then held in the Tioga County Jail pending disposition of his Article 10 case.

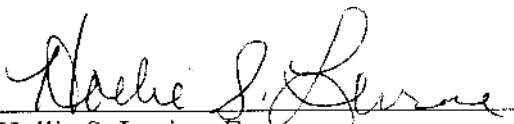
6. Pursuant to MHL 10.07(f), Supreme Court then held a dispositional hearing on May 14, 2008.

7. On May 22, 2008, Justice Garry issued an order subjecting Shawn Short to a regimen of Strict and Intensive Supervision and Treatment (SIST) with various conditions. The order provided, *inter alia*, for Shawn Short to be released from prison on or about May 27, 2008 subject to the SIST conditions. A true and correct copy of the May 22, 2008 order and court imposed conditions are attached to the Declaration of Assistant Attorney General Geoffrey B.

Rossi as Exhibits 3 and 4.

8. Shawn Short has retained private counsel and filed Notice of Appeal from the Court's May 22, 2008 order. A copy of the Notice of the Appeal and Pre-calendar statement filed on behalf of Shawn Short are annexed hereto as Exhibit A.

Dated: August 8, 2008
Binghamton, New York


Hollie S. Levine, Esq.